IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 34124 of 2004(K)

AGAINST THE ORDER IN ARC 27 OF 1997 IN
EP.143/2004 of PRL.MUNSIFF, KASARAGOD

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PETITIONER: JUDGMENT DEBTOR/RESPONDENT:

C.KRISHNAN NAIR, S/O.MALINGU NAIR,
BADIRA, KUNDAMKUZHI P.O. KASARAGOD TALUK AND
DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENT: DECREE HOLDER/PETITIONER:

KASARAGOD DISTRICT CO-OPERATIVE BANK
LTD., REP. BY ITS GENERAL MANAER,
HEAD OFFICE, KASARAGOD.

BY ADV. SRI.T.R.HARIKUMAR,S.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC NO.34124/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF E.P.143/04 IN ARC 27/97 ON THE FILE OF THE MUNSIFF'S COURT, KASARAGOD.

EXT.P2: TRUE COPY OF THE COUNTER DATED 15.7.04 IN EP 143/04 FILED BY THE PETITIONER.

EXT.P3: TRUE COPY OF THE ORDERS DATED 27.10.2004 PASSED BY THE EXECUTION COURT AND THE PROCEEDINGS CONTAINED IN THE ORDER SHEET.

EXT.P3(a): TYPED COPY OF THE ORDER AND ENDORSEMENT MADE ON THE ORDER SHEET.

EXT.P4: TRUE COPY OF THE REPRESENTATION DATED 22.11.2004 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.

RESPONDENT'S EXTS.:

EXT.R1(a): TRUE COPY OF THE PROCEEDINGS DATED 2.12.2002.

EXT.R1(b): TRUE COPY OF THE NOTICE DATED 20.12.2002.

EXT.R1(c): TRUE COPY OF THE ORDER DATED 11.7.2003.

EXT.R1(d): TRUE COPY OF THE NOTICE DATED 9.9.2003.

EXT.R1(e): TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 27.2.2004.

EXT.R1(f): TRUE COPY OF THE BUILDING TAX RECEIPT NO.39 DT. 27.2.2004.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.34124 of 2004

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Dated: 25th May, 2007

JUDGMENT

The order of delivery passed by the execution court executing an award passed by the Joint Registrar of Co-operative Societies, Kasaragod in ARC No.27 of 1997 is under challenge. A very serious counter affidavit has been filed by the respondent-Bank justifying the order of delivery. Even though Mr.Suresh Kumar Kodoth, learned counsel for the petitioner made very persuasive submissions, I am unable to agree with him that the order is so wholly unreasonable as to warrant interference by this court under its visitorial jurisdiction under Article 227 of the Constitution. However considering the fact that the petitioner is going to be evicted from his residential building, even as I refuse to interfere with the order of the execution court, I direct that the order of stay presently passed will continue for a period of 50 days more from today. The respondent-Bank will take up Ext.P4 representation submitted by the petitioner, hear the petitioner and take a correct and just decision on Ext.P4 in the meanwhile. The petitioner will apply for urgent copy of this judgment and produce

copy of the judgment before the respondent-Bank as soon as he receives the same.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**